

## BOARD OF ZONING APPEALS MEETING

TIPP CITY, MIAMI COUNTY, OHIO

July 15, 2009

### Meeting

Chairman Poff called this meeting of the Tipp City Board of Zoning Appeals to order at 7:30 p.m.

### Roll Call

Roll call showed the following Board Members present: Ron Poff, Katelyn Black, David Berrett, Stacy Wall, and John Borchers. Others in attendance: City Planner/Zoning Administrator Matthew Spring, and Board Secretary Kimberly Patterson.

Citizens attending the meeting: Keith Huelskamp.

### Board Minutes 7/15/09

Chairman Poff asked for discussion. There being none, Mr. Berrett **moved to approve the June 25, 2009, meeting minutes as written**, seconded by Mr. Borchers. **Motion carried.** Ayes: Berrett, Borchers, Black, and Poff. Nays: None. Mrs. Wall abstained from the vote.

### Chairman's Introduction

Chairman Poff explained the guidelines and procedures for the meeting and public hearings. He advised the applicants that a decision of the Board could be appealed to City Council within 10 days. If the Board granted the applicant's request, the applicant may file the appropriate permits after the 10-day waiting period has expired.

### Citizen Comments

There were none.

### Administration of Oath

Mrs. Patterson swore in citizen wishing to speak and Mr. Spring.

### New Business Case No. 03-09 Keith Huelskamp Variance Request

#### New Business

**A. Case NO. 03-09: Keith Huelskamp - 460 Burnside Drive, Tipp City, OH - Inlot: 4012** - The applicant requested a variance of 134.5 square feet to the maximum allowable area for private garages of 800 square feet noted in Code §154.059(A)(1)(a), in conjunction with the construction of a new single-family dwelling unit at 460 Burnside Drive in the Hunter's Ridge Subdivision Section Two. If approved, the area of the proposed garage would be ±934.5 square feet.

**Present Zoning district:** R-1A – Suburban Residential Zoning District  
**Zoning Code Section(s):** §154.059(A)(1)(a)

Mr. Spring stated that the applicant requested a variance of 134.5 square feet to the maximum allowable area for private garages of 800 square feet noted in Code §154.059(A)(1)(a), in conjunction with the construction of a new single-family dwelling unit at 460 Burnside Drive in the Hunter's Ridge Subdivision Section two. If approved, the area of the proposed garage would be  $\pm 934.5$  square feet.

The proposed  $\pm 7,000$  square foot home was within the R-1A – Suburban Residential Zoning District, and would be located on a lot that was  $\pm 1.352$  acres in area.

#### Variance Request

Code §154.059(A)(1)(a) indicates that private garages or carports are not to exceed 800 square feet for single family dwellings.

Staff noted that the precedence for the determination of garage area was calculated by measuring the garage door width times the length of the garage, rather than simply length times width of the entire garage structure. According to this methodology, the proposed garage contains  $\pm 934.5$  square feet ( $18' \times 25' 11\frac{1}{2}" \approx 467.25$ )  $\times 2$  doors =  $934.499 \approx 934.5$  square feet. Thus, a variance of 134.5 square feet ( $934.5 - 800 = 134.5$ ) to the maximum allow area for private garages of 800 square feet noted in Code §154.059(A)(1)(a).

Mr. Spring also stated that Zoning Code Section §154.059(D)(6) indicates:

*A detached accessory building shall be at least 3 feet from all lot lines.*

Staff also noted the Board of Zoning Appeals had jurisdiction in this case to grant the variance requested:

§154.175 (E) *"The Board may grant variances only in the following instances and no others:*

- 1. To permit any yard or setback less than a yard or setback required by the applicable regulations.*

Mr. Spring stated that the following procedural requirements must be met regarding the granting of variances as noted in Section §154.175(C):

*"The Board shall make written findings of fact, based on the particular evidence presented to it, that each and every one of the following standards for a variance are met by the application:*

- (1) The particular physical surroundings, shape, or topographical condition of the specific property would cause particular and extraordinary hardship to the owner if the literal provisions of the zoning code were followed;
- (2) The alleged hardship has not been created by the applicant for the variance after the adoption of the zoning code;
- (3) The granting of a variance will not be materially detrimental to the public health, safety, convenience, or general welfare or injurious to other property or improvements in the vicinity;
- (4) The granting of a variance will not constitute a grant of a special privilege, denied by this chapter to other property in the same zoning district, or permit a use not expressly allowed by this chapter, or permit a use prohibited expressly or by implication to other property in the same district. No nonconforming use of neighboring lands, structures or buildings in the same district, and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the granting of a variance."

Staff also noted the requirement of Section §154.175(D), which states:

*"The Board shall further make a written finding that the reasons set forth in the application justify the granting of a variance, and that the variance is the minimum variance that will make possible the reasonable use of the property. When a variance is denied, a written statement shall set forth the reason(s) therefore.*

Mr. Spring stated the additional notes regarding the case as follows:

- The home was currently under construction with plans approved that include a smaller garage (under 800 square feet).
- There are 5' utility easements along the side property lines, a 10' utility easement along the rear property line, and a 100' DP&L easement at the rear of the property. The proposed garage/home would not encroach into these easements.
- The applicant would provide a paved driveway to the proposed garage which would maintain the required minimum side yard setback of 6'.

Mr. Huelskamp, 6641 Stillmead Drive, Dayton, Ohio approached the dais.

Board Members found the following regarding the case: Structure would be within all required setbacks; applicant does not desire to utilize a shed and proposed to store lawn mower and other miscellaneous items in the garage; garage would not have a second floor; applicant does not intend to sell any of the present acreage; no neighbors comments had been received regarding the variance request.

Board Members discussed the garage size requirements for larger acreage lots. A suggestion was made by Mr. Poff that the Planning Board consider a modification to the Code to allow for larger garages on lots of 1 acre or more.

Mr. Poff asked for further discussion. There was none. Mr. Berrett **moved to grant a variance of 134.5 square feet to the maximum allowable area for private garage of 800 square feet noted in Code §154.059(A)(1)(a), to construct a ± 934.5 square foot garage at the single-family dwelling located at 460 Burnside Drive,** seconded by Ms. Black. **Motion carried.** Ayes: Berrett, Black, Wall, Poff, and Borchers. Nays: None.

**Old Business**

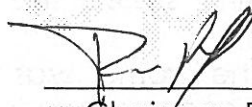
There was none.

**Miscellaneous**

There was none.

**Adjournment**

There being no further business, Mr. Borchers **moved to adjourn the meeting,** seconded by Mr. Poff and unanimously approved. **Motion carried.** Chairman Poff declared the meeting adjourned at 7:47 p.m.



Chairman Ron Poff

Attest:   
Mrs. Kimberly Patterson, Board Secretary